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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **SCOTT ROBERTS,**

12 Holder of License No. S008515
As a Pharmacist
13 In the State of Arizona

Board Case No. 10-0057-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
CONTINUING EDUCATION**

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Scott Roberts ("Respondent"),
18 holder of Pharmacist License Number S008515 in the State of Arizona, and the Board
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
20 ("Consent Agreement") as a final disposition of this matter.

21 **RECITALS**

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing he could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3757 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

1 document regardless of whether the Consent Agreement has been signed by the
2 Executive Director. Any modification to this original document is ineffective and void
3 unless mutually agreed by the parties in writing.

4 9. This Consent Agreement is subject to the approval of the Board and is
5 effective only when accepted by the Board and signed by the Executive Director. In the
6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
7 be of no evidentiary value and shall not be relied upon nor introduced in any action by
8 any party, except that the parties agree that should the Board reject this Consent
9 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
10 Board was prejudiced by its review and discussion of this document or any records
11 relating thereto.

12 10. If a court of competent jurisdiction rules that any part of this Consent
13 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
14 shall remain in full force and effect.

15 11. Respondent understands that this Consent Agreement is a public record that
16 may be publicly disseminated as a formal action of the Board and may be reported as
17 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
18 Protection Data Bank.

19 12. Respondent understands that any violation of this Consent Agreement
20 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
21 1901.01(B)(20), -1927(A)(1).

22 13. Respondent agrees that the Board will adopt the following Findings of Fact,
23 Conclusions of Law and Order.

24 ...

25 ...

26 ...

1 ACCEPTED AND AGREED BY RESPONDENT

2 Scott Roberts
3 Scott Roberts

Dated: 4-28-10

4 Subscribed and sworn to before me in the County of MARICOPA, State of ARIZONA,
5 this 28th day of April, 2010, by Scott Roberts.



7 Esteban Aguilar
8 NOTARY PUBLIC

9 My Commission expires: December 4, 2012

10 **FINDINGS OF FACT**

11 1. The Board is the duly constituted authority for licensing and regulating the
12 practice of pharmacy in the State of Arizona.

13 2. Respondent is the holder of license number S008515 to practice as a
14 pharmacist in the State of Arizona.

15 3. During all relevant times to these findings, Respondent was the pharmacist
16 in charge and director of pharmacy at Arizona State Hospital (the "Pharmacy") in
17 Phoenix, Arizona. As pharmacist in charge and director of pharmacy, Respondent was
18 responsible for all activities of the Pharmacy and for meeting the requirements of the
19 Arizona Pharmacy Act and the Board's Rules. Arizona Administrative Code R4-23-
20 653(A)(1).
21

22 4. In January 2010, Respondent received a prescription order for diazepam
23 2mg. Respondent dispensed one half of a diazepam 5mg tablet with an additional portion
24 of the tablet cut off. Packaging records indicated that the pill fragment was labeled as
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1 diazepam 2.5mg. However, Respondent stated that a secondary label was added
2 identifying the pill fragment as diazepam 2mg.

3 5. The Pharmacy failed to have a current medication formulary listing
4 medications and stating accepted therapeutic substitutions.
5

6 6. FDA requirements for a patient receiving clozapine require that, for the first
7 six months, the patient is required to have weekly blood work. The blood work may not
8 be more than seven days old in order for the pharmacist to dispense the medication. A
9 clozapine patient at Arizona State Hospital required weekly blood work. The Pharmacy
10 reported blood work results received for the patient on December 10, 2009, with the next
11 results not received until December 23, 2009. The Pharmacy continued to dispense
12 clozapine to the patient when the last blood work results were more than seven days old.
13

14 CONCLUSIONS OF LAW

15 1. The Board possesses jurisdiction over the subject matter and over
16 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

17 2. The Board may discipline a pharmacist who has engaged in unprofessional
18 conduct. A.R.S. § 32-1927(A)(1).

19 3. The conduct and circumstances described above constitutes unprofessional
20 conduct pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or
21 regulation relating to the manufacture or distribution of drugs and devices or the practice
22 of pharmacy).
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4. The conduct described above violated Arizona Administrative Code R4-23-653(E)(3) (A pharmacist shall measure, count, pour or otherwise prepare and package a drug needed for dispensing).¹

5. The conduct described above violated Arizona Administrative Code R4-23-653(E)(13) (A pharmacist shall verify the accuracy of all aspects of the original, completed medication order).

6. The conduct described above violated Arizona Administrative Code R4-23-658(D)(1)(b)(i) (A director of pharmacy or pharmacist in charge shall ensure that all drugs distributed or dispensed by a hospital pharmacy are packaged in appropriate containers and, for a repacked preparation, the label contains the drug name, strength, and dosage form).

7. The conduct described above violated Arizona Administrative Code R4-23-658(B)(1) (The director of pharmacy is responsible for developing a medication formulary for the hospital).

ORDER

Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED THAT Respondent shall:

1. Pay a civil penalty of \$1,000.00 within **90 days** of the effective date of this Order;

2. Within **90 days** of the effective date of this Consent Agreement, Respondent shall successfully complete the MPJE examination and provide proof of the successful completion to the Board; and

¹ Dispensing for hospital inpatients means interpreting, evaluating, and implementing a medication order including preparing for delivery a drug or device to an inpatient or inpatient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, an inpatient. A.A.C. R4-23-651.

3. Successfully complete and provide proof of successful completion to the Board of three (3) contact hours (0.3 C.E.U.) of American Council on Pharmaceutical Education (ACPE) courses on the topic of generic substitution and three (3) contact hours (0.3 C.E.U.) of ACPE courses on the topic of FDA law (courses on the Federal Controlled Substances Act will not be counted). The required courses must be completed within **90 days** of the effective date of this Order, must be pre-approved by Board staff, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C. R4-23-204.

4. If Respondent violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving the Respondent notice and the opportunity to be heard, may revoke, suspend or take other disciplinary actions against Respondent's license. The issue at such a hearing will be limited solely to whether this Order has been violated.

DATED this 12 day of July, 2010.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By:

HAL WAND, R.Ph.
Executive Director

1 ORIGINAL OF THE FORGOING FILED
2 this 12 day of May, 2010, with:

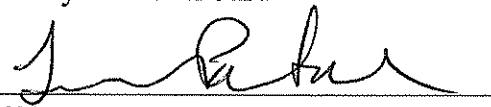
3 Arizona State Board of Pharmacy
4 1700 West Washington, Suite 250
5 Phoenix, Arizona 85007

6 EXECUTED COPY OF THE FOREGOING MAILED
7 BY CERTIFIED MAIL
8 this 12 day of May, 2010, to:

9 Scott Roberts
10 2132 W. Glenrosa Ave. #81-A
11 Phoenix, Arizona 85015
12 Respondent

13 EXECUTED COPY OF THE FOREGOING MAILED
14 this 12 day of May, 2010, to:

15 Elizabeth A. Campbell
16 Assistant Attorney General
17 1275 W. Washington Street, CIV/LES
18 Phoenix, Arizona 85007
19 Attorney for the Board

20 
21 #780024